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5 Attorney for Plaintiff

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ANGELA HERNANDEZ, )  
Plaintiff, )  
vs. )  
EQUABLE ASCENT FINANCIAL, LLC, )  
a foreign Limited Liability )  
Company, and )  
APEX FINANCIAL MANAGEMENT, LLC )  
a foreign Limited Liability )  
Company, )  
Defendants. )

No.

JURY DEMANDED

LAW OFFICES  
MITCHELL D. GLINER  
3017 W. Charleston Blvd.  
Suite 95  
Las Vegas, Nevada 89102  
(702) 870-8700

COMPLAINT

JURISDICTION

1. The jurisdiction of this Court attains pursuant to the  
FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,  
and the doctrine of supplemental jurisdiction. Venue lies in the  
Southern Division of the Judicial District of Nevada as Plaintiff's  
claims arose from acts of the Defendants perpetrated therein.

PRELIMINARY STATEMENT

2. This action is instituted in accordance with and to  
remedy Defendants' violations of the Federal Fair Debt Collection  
Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter "FDCPA"), and  
of related state law obligations brought as supplemental claims  
hereto.

1       3.    In 2010 Defendants initiated a campaign of abusive,  
2 unfair, unreasonable, and unlawful debt collection activity  
3 directed against Plaintiff in Pahrump, Nevada.

4       4.     As a result of these and other violations of law,  
5 Plaintiff seeks hereby to recover actual and statutory damages  
6 together with reasonable attorney's fees and costs.

## PARTIES

9       5. Plaintiff, Angela Hernandez, is a natural person who  
10 resides in Pahrump, Nevada, and is a "consumer" as defined by 15  
11 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by  
12 15 U.S.C. Section 1692a(5).

13       6.     The Defendant, Equable Ascent Financial, LLC, (Equable)  
R  
14     is a foreign Limited Liability Company, the principal purpose of  
2  
15     whose business is the collection of debts operating a debt  
16     collection agency from its principal place of business in Buffalo  
17     Grove, IL and regularly collections or attempts to collect debts  
18     owed or due or asserted to be owed or due another, and is a "debt  
19     collector" as defined by 15. U.S.C. Section 1692a(6).

20       7. The Defendant APEX Financial Management, LLC (APEX) is a  
21 foreign Limited-Liability Company, the principal purpose of whose  
22 business is the collection of debts, operating a debt collection  
23 agency from its principal place of business is Buffalo Grove, IL,  
24 and regularly collects or attempts to collect debts owed or due or  
25 asserted to be owed or due another, and is a "debt collector" as  
26 defined by 15 U.S.C. Section 1692a(6).

## FACTUAL ALLEGATIONS

8. Plaintiff repeats, realleges and asserts all factual allegations contained in the preliminary statement to this Complaint and reasserts them as incorporated in full herein.

9. Plaintiff's husband lost his job and has not worked for a very long time.

10. Plaintiff's home has been foreclosed.

11. Plaintiff is on the cusp of bankruptcy.

9       12. During August, 2010, Equable assigned its account to  
10 Global Credit & Collection Corp. (Global).

11       13. On September 22, 2010, Plaintiff wrote Global advising of  
12 her refusal to pay (Exhibit 1).

14. Plaintiff's written refusal to pay required Defendants to cease and desist all collection communications in accordance with FDCPA § 1692c(c):

(c) Ceasing communication - If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt.

15. A copy of Exhibit 1 was also mailed to Equable and received on September 27, 2010 (Exhibit 2).

16. Notwithstanding, Equable again dunned Plaintiff through APEX on November 9, 2010, in violation of FDCPA §§ 1692c(c) and 1692d (Exhibit 3).

17. The Defendants share the same address.

2       18. The foregoing acts and omissions of Defendants were  
3 undertaken by them willfully, maliciously, and intentionally,  
4 knowingly, and/or in gross or reckless disregard of the rights of  
5 Plaintiff.

6       19. Indeed, the foregoing acts and omissions of Defendants  
7 were undertaken by them indiscriminately and persistently, as part  
8 of their regular and routine debt collection efforts, and without  
9 regard to or consideration of the identity or rights of Plaintiff.

10       20. As a proximate result of the foregoing acts and omissions  
11 of Defendants, Plaintiff has suffered actual damages and injury,  
12 including, but not limited to, stress, humiliation, mental anguish  
13 and suffering, and emotional distress, for which Plaintiff should  
14 be compensated in an amount to be proven at trial.

15       21. As a result of the foregoing acts and omissions of  
16 Defendants, and in order to punish Defendants for their outrageous  
17 and malicious conduct, as well as to deter them from committing  
18 similar acts in the future as part of their debt collection  
19 efforts, Plaintiff is entitled to recover punitive damages in an  
20 amount to be proven at trial.

## CAUSES OF ACTION

COUNT I

24       22. The foregoing acts and omissions of Defendants  
25 constitute violations of the FDCPA, including, but not limited to,  
26 Sections 1692c, 1692d, 1692e 1692f and 1692g.

27       23. Plaintiff is entitled to recover statutory damages,  
28 actual damages, reasonable attorney's fees, and costs.

1 COUNT II

2 24. The foregoing acts and omissions of Defendants constitute  
3 unreasonable debt collection practices in violation of the doctrine  
4 of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*,  
5 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac*  
6 *Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev.  
7 1997).

8 25. Plaintiff is entitled to recover actual damages as well  
9 as punitive damages in an amount to be proven at trial.

10 JURY DEMANDED

11 Plaintiff hereby demands trial by a jury on all issues so  
12 triable.

13 WHEREFORE, Plaintiff prays that this Honorable Court grant the  
14 following relief:

15 1. Award actual damages.

16 2. Award punitive damages.

17 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C.  
18 § 1692k.

19 4. Award reasonable attorney fees.

20 5. Award costs.

21 6. Grant such other and further relief as it deems just and  
22 proper.

23 Respectfully submitted,

24  
25 MITCHELL D. GLINER, ESQ.

26 Nevada Bar #003419

27 3017 West Charleston Boulevard

28 Suite 95

Las Vegas, NV 89102

Attorney for Plaintiff

September 22, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Global Credit & Collection Corp.  
P. O. Box 101928, Dept. 2417  
Birmingham, Al 35210

Dear Sir:

I attach your August 27, 2010, correspondence on behalf of Equable Ascent Financial.

Regrettably, I am on the precipice of bankruptcy and thusly refuse to pay you.

Thank you in advance for your anticipated courtesy.

Sincerely

Angela Hernandez nee Atherley

Enclosure

cc: Equable Ascent Financial, LLC, via Certified Mail  
1120 W. Lake Cook Rd., Ste. B, Buffalo Grove, IL 60089

**EXHIBIT /**

PO Box 101928, Dept. 2417  
Birmingham, AL 35210

017939



August 27, 2010



CREDIT &amp; COLLECTION CORP

Global Credit & Collection Corp.  
300 International Drive  
PMB #10015  
Williamsville, NY 14221  
1-866-350-7727



|||||  
25506\*\*\*AUT0\*\*MIXED AADC 350

Angela L Atherley  
2580 Carnation Way  
Pahrump NV 89048-5358

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Client:	Equable Ascent Financial, LLC
Original Creditor:	Washington Mutual Card
Account Number:	4559545001242362
Global ID:	24675294
Amount Due:	\$6378.02

Dear Angela L Atherley,

Your account has been placed with Global Credit & Collection Corp., a collection agency acting on behalf of Equable Ascent Financial, LLC, a debt purchasing company. This is an attempt to collect a debt. Any information will be used for that purpose.

Due to your failure to pay our client, your delinquent account has been referred to Global Credit & Collection Corp to collect the balance. Our client wants to settle this debt in a reasonable, professional manner. As soon as we bring your account to a conclusion all collection activity will be stopped.

**The balance due on your Washington Mutual Card account is \$6378.02. Our client has authorized us to offer you a settlement of 80% of your total balance.**

**We will accept \$5102.42 as final settlement on your account. Please contact our office at your earliest convenience to take advantage of the opportunity.**

For your convenience payments may be processed electronically over the telephone at no addition cost.

Should you have any questions concerning your payment or your account, please telephone our office. Please make sure that your payment clearly identifies your name and that of your creditor so that payment can be properly applied to your account.

Mr. Duarte  
1-866-350-7727

**SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**

**Detach and Return Bottom Portion with Payment**

**Pay by Credit Card**

Fill in all of the information below.

<input type="checkbox"/> VISA	<input type="checkbox"/> MC	<input type="checkbox"/> AMEX
Card #	Security Code	Expiration Date
Billing Address		
Signature	Amount Authorized \$	

**Pay by Auto Pay Payment**

Fill in all of the information below, and we will arrange this payment free of charge.

Name of Bank	<input type="checkbox"/> Checking	<input type="checkbox"/> Savings
Routing Number	Account Number	Payment Date
Name of Account Holder		
Signature	Amount Authorized \$	

Client:	Equable Ascent Financial, LLC
Original Creditor:	Washington Mutual Card
Account Number:	4559545001242362
Global ID:	24675294
Amount Due:	\$6378.02

|||||  
Global Credit & Collection Corp.

300 International Drive

PMB #10015

Williamsville, NY 14221



Track & Confirm

## Track & Confirm

### Search Results

Label/Receipt Number: 7005 2570 0000 3475 9594

Service(s): Certified Mail™

Status: Delivered

Track & Confirm

Enter Label/Receipt Number.

Your item was delivered at 4:01 pm on September 27, 2010 in BUFFALO GROVE, IL 60089.

#### Detailed Results:

- Delivered, September 27, 2010, 4:01 pm, BUFFALO GROVE, IL 60089
- Arrival at Unit, September 27, 2010, 8:28 am, BUFFALO GROVE, IL 60089

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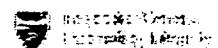
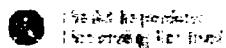


EXHIBIT 2

